



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2011

Ms. Susan Fillion
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002-1700

OR2011-06976

Dear Ms. Fillion:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 418023 (C.A. File No. 11PIA0074).

The Harris County Tax Office (the "tax office") received a request for the Texas Voter Registration Applications and Harris County Voting History Records for two named individuals. You indicate you have released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.102, and 552.1175 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Chapter 13 of the Election Code pertains to voter qualifications and registration. You raise section 552.101 in conjunction with section 13.004 of the Election Code, which provides in pertinent part:

¹Although you also claim section 552.117 for portions of the submitted information, section 552.1175 is the proper exception to raise in this instance because the tax office does not hold the information at issue in an employment capacity.

(a) The registrar may not transcribe, copy, or otherwise record a telephone number furnished on a registration application.

...

(c) The following information furnished on a registration application is confidential and does not constitute public information for purposes of Chapter 552, Government Code:

(1) a social security number;

(2) a Texas driver's license number;

...

(4) an indication that an applicant is interested in working as an election judge[.]

...

(d) The voter registrar or other county official who has access to the information furnished on a registration application may not post the following information on a website:

(1) a telephone number;

(2) a social security number;

(3) a driver's license number or a number of a personal identification card; [or]

(4) a date of birth[.]

Elec. Code § 13.004(a), (c), (d). The tax office must, therefore, withhold the social security numbers, Texas driver's license numbers, and an indication that an applicant is interested in working as an election judge, which we have marked, from the submitted registration applications under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code. You also indicate the voters' telephone numbers and dates of birth are excepted from disclosure under sections 13.004(a) and 13.004(d) of the Election Code. However, for information to be confidential under section 552.101, the provision of law must explicitly require confidentiality. A confidentiality requirement will not be inferred from a provision's structure. *See Open Records Decision Nos. 658 at 4 (1998) (stating that statutory confidentiality provision must be express and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (stating that, as*

general rule, statutory confidentiality requires express language making information confidential), 465 at 4-5 (1987). Section 13.004(a) prohibits the county from transcribing, copying, or recording a voter's telephone number. *See* Elec. Code § 13.004(a). Section 13.004(d) prohibits the posting of certain specified information on a website. *See id.* § 13.004(d). Because neither section 13.004(a) or section 13.004(d) explicitly provides that information is confidential, we find that the tax office may not withhold the telephone numbers and birth dates of voters from the requestor under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code.

Section 552.102(a) of the Government Code excepts from disclosure "information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." Gov't Code § 552.102(a). We note the submitted information is not part of a personnel file. Therefore, we conclude none of the remaining information is excepted under section 552.102(a) of the Government Code, and it may not be withheld on that basis.

Section 552.1175 of the Government Code provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure[.]

...

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Id. § 552.1175(a)-(b). You state the remaining information pertains to a Harris County constable who elected to restrict access to his personal information. Therefore, the tax office must withhold the information we have marked under section 552.1175 of the Government Code. However, none of the remaining information constitutes personal information of the peace officer at issue for the purposes of section 552.1175. Accordingly, none of the remaining information may be withheld on that basis.

In summary, the tax office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 13.004 of the Election Code and the information we have marked under section 552.1175 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', followed by a large, stylized circular flourish.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eb

Ref: ID# 418023

Enc. Submitted documents

c: Requestor
(w/o enclosures)